

## **AFFIDAVIT OF GEORGE A. LOMBARDI**

I, George A. Lombardi, having been first duly sworn, state:

1. I am presently employed as the Director of the Missouri Department of Corrections ("Department"). I have been the Director since January 2009.

2. Pursuant to § 546.720, Mo. Rev. Stat., I am authorized and directed to establish the means by which the Department conducts lawful executions in the State of Missouri and am further authorized to select members of the execution team.

3. On October 18, 2013, the Department adopted a new execution protocol, which defined the execution team members as follows:

Department employees and contracted medical personnel including a physician, nurse, and pharmacist. The execution team also consists of anyone selected by the department director who provides direct support for the administration of lethal chemicals, including individuals who prescribe, compound, prepare, or otherwise supply the chemicals for use in the lethal injection procedure.

4. Due to nationwide shortages, lethal chemicals have been increasingly difficult to obtain, but are necessary for the Department to carry out lawful executions. This problem is not limited to Missouri but is also experienced by other states that enforce the death penalty. It has been widely reported by the news media that many manufacturers and suppliers have, under pressure from death-penalty opponents, refused to sell or manufacture

lethal chemicals for use in lawful executions. In my experience, this has been because manufacturers and suppliers fear financial, legal, and physical threats from those who oppose the death penalty.

5. The Department has searched extensively for suppliers of lethal chemicals. The only suppliers the Department found that will provide the chemicals require the assurance of confidentiality. The change in the protocol and protecting the identities of the suppliers was critical for the Department's ability to carry out lawful executions.

6. The Department has also searched extensively for medical and non-medical personnel to assist in lawful executions. The only personnel the Department found that will provide assistance require the assurance of confidentiality. Protecting the identities of these personnel is critical to the Department's ability to carry out lawful executions.

7. Because the Department has diligently carried out the law, including protecting the identities of execution team members and suppliers, Missouri has been able to carry out 19 rapid and painless executions since November 2013.

8. I have personally reviewed the requests made by Richard Jordan and Ricky Chase, Mississippi prisoners under sentence of death.

9. I have personally reviewed the responsive documents located by the Missouri Department of Corrections.

10. After careful consideration, I have determined that there is a reasonable danger that complying with the subpoena will result in the release of the identities of the members of the execution team.

11. Releasing the identity of execution team members would prevent the Department from employing and contracting with those defined as execution team members. In my experience with obtaining and retaining execution team members, confidentiality of their identities is a vital component of continued participation.

12. Further, maintaining the confidentiality of the execution team members is critical to the safety of the individuals and entities that assist Missouri in carrying out lawful executions. Revealing the identities of any execution team member, or records that could reveal the identity of those individuals would only expose that person or entity to harassment, intimidation and harm. *See Exhibit A, letter from pharmacist and related news articles.*

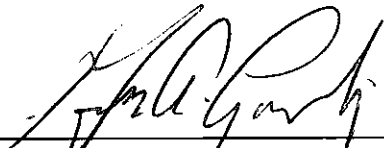
13. Consequently, I have personally determined that providing the requested documents or providing deposition testimony would pose a threat to Missouri's autotomy.

14. Furthermore, the subpoena seeks documents that inquire into the process of selecting a lethal chemical for Missouri's current protocol. The responsive documents and testimony contain information that is completely

intertwined with the Department's deliberations. As a result, after personal consideration, I am invoking the Deliberative Process Privilege with respect to request for documents 1, 4, 5, 6, 7, and 8 and deposition topics 1, 2, 3, 4, 6, 7, 8, and 9.

15. Finally, I have personally determined that it is necessary to invoke the state's secrets privilege with respect to all responsive documents sought by the subpoena.

Further Affiant Sayeth Not

  
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Director George A. Lombardi  
Missouri Department of Corrections

STATE OF MISSOURI           )  
  )  
COUNTY OF COLE            )

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Subscribed to and sworn before me this 8 day of June,  
2016.

Deborah L. Vance  
Notary Public

My commission expires on 12-5-16.

